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**Restorative Justice in the Context of Protecting the Rights of the
Crimean Tatar People as an Indigenous People of Ukraine**

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Summary

The Constitution of Ukraine and its national legislation guarantee the rights of indigenous peoples, who are defined as autochthonous ethnic communities that have formed within the territory of Ukraine. These communities preserve their original language and culture, maintain traditional, social, cultural, or representative institutions, and identify themselves as indigenous peoples of Ukraine. They constitute an ethnic minority within the population and do not have a state entity of their own outside Ukraine.

Unfortunately, in the mid-20th century, the peoples of Crimea, particularly the Crimean Tatars, were forcibly resettled by the Soviet authorities from their historical homelands, an act that is now recognized as genocide. It was only after Ukraine gained independence that the Crimean Tatars were fully able to return to their ancestral homes in Crimea. This return was accompanied by the need to restore their legal status and address issues related to citizenship, restitution, land rights, culture, language, and religion, which had to be managed by both state and autonomous authorities. The purpose of this article is to examine these issues in detail. Additionally, the article highlights the challenges of ensuring the rights of the Crimean Tatar people following Russia's occupation of Crimea in 2014.

Key words: restorative justice, indigenous peoples, rights of indigenous peoples, Crimean Tatars, restitution, human rights.

Introduction

The humanitarian policy of the state in a multi-ethnic society aims at establishing conditions that fully support the linguistic, ethnic, and religious rights of every individual. Ukraine, having defined itself as a democratic state governed by the rule of law, strives to create an environment that fosters equal development and active participation in the social, economic, political, spiritual, and cultural life of all its citizens, irrespective of their language, ethnicity, or religion. A key aspect of this policy is to ensure that the rights of linguistic, ethnic, and religious minorities in Ukraine are upheld.

According to the most recent all-Ukrainian population census conducted in 2001, the national minorities of Ukraine include more than 8 million Russians, 275,000 Belarusians, 258,000 Moldovans, 248,000 Crimean Tatars, 204,000 Bulgarians, 156,000 Hungarians, 151,000 Romanians, 144,000 Poles, 103,000 Jews, 99,000 Armenians, 91,000 Greeks, 73,000 Tatars, and 47,000 Romas, among others. The Krymchaks and Karaites represent the smallest ethnic groups, with a total of 161 ethnic groups identified.

By 2014, the population of Crimean Tatars in Ukraine had grown to about 300,000. It is important to note that prior to 2014, the Ukrainian state struggled to define the status of the Crimean Tatar people—whether to regard them as a national or ethnic community, or as an indigenous people. It was only in 2014, under the tragic circumstances of the Crimean occupation, that the Parliament of Ukraine adopted a resolution on guaranteeing the rights of the Crimean Tatar people within Ukraine. This resolution commits the state to preserving and fostering the ethnic, cultural, linguistic, and religious identity of the Crimean Tatar people as an indigenous group. It also guarantees their right to self-determination as part of a sovereign and independent Ukrainian state.

1. Who Should be Classified as Indigenous Peoples? The Legal Status of Indigenous Peoples of Ukraine

In academic literature and international law, indigenous peoples are typically recognized as groups having experienced colonization or conquest, which has led them to become minorities (or an „unexpected“ segment of the population) within a state dominated by a titular nation¹. Another distinguishing feature of indigenous peoples is often their traditional way of life and economic practices, which may put them into an economically disadvantaged position, compared to the dominant groups utiliz-

¹ James S. Anaya. *Indigenous Peoples in International Law*. Second Edition. Oxford University Press, 2004. p. 3; *Daes E. I. A. An overview of the history of indigenous peoples: self-determination and the United Nations* // *Cambridge Review of International Affairs*. 2008. T. 21. №. 1. P. 8.

ing modern production methods. In both scholarly literature and national legislation, terms like „ab-
original“ or „autochthonous“ populations are also used to describe these groups.

Many South American countries have significant indigenous (aboriginal) populations, though the situation of these peoples varies: in Bolivia and Guatemala, indigenous peoples constitute two-thirds of the population; in Peru and Ecuador, about 40%; and in most other countries, the percentage ranges from 5% to 20%. In Brazil, indigenous peoples represent less than 1% of the population. Under the influence of indigenous movements and international law, various states have incorporated provisions regarding the rights of indigenous peoples into their constitutions, including the recognition of their languages. For example, Panama’s 1972 Constitution was the first in Latin America to establish regional autonomy for several indigenous groups and to recognize their right to bilingual education. Subsequently, countries like Argentina and Peru have enacted subregional laws acknowledging the rights of indigenous peoples to their territory, language, and culture². In Peru, for instance, Quechua, Aymara, and other indigenous languages are recognized as official in areas where they are prevalent (Article 44 of the Constitution). Similarly, the constitutions of Colombia, Ecuador, and Venezuela recognize the languages and dialects of ethnic groups as official within their respective territories.

The 1988 Constitution of the Federal Republic of Brazil declares Portuguese as the official language (Article 13). Additionally, the constitution mandates the state to promote the cultural expressions of Indian, Afro-Brazilian, and other groups contributing to the national cultural process (Article 215). A specific chapter (VIII) of the Brazilian Constitution addresses the legal status of indigenous peoples, acknowledging their social organization, customs, languages, beliefs, and traditions, as well as their original rights to the land they traditionally occupy.

Legislation concerning the rights of indigenous peoples was enacted also in Canada, Australia, Malaysia, and other states. In Finland, Sweden³, and Norway, the cultural, linguistic, and educational rights of the Sami people are explicitly protected at both the constitutional and legislative levels⁴. The Constitution of Finland, for instance, grants the Sami, as the country’s oldest inhabitants (along with Roma and other groups), the right to protect and develop their language and culture. The Sami persons’ right to use their language in public institutions is legally regulated. In 1991, Finland passed the Sámi Language Act, which allows the Sami in the North of Finland to use their native language in

² *Абашидзе А. Х., Ананидзе Ф. Р.* Правовой статус меньшинств и коренных народов. Международно-правовой анализ. – М. : Изд-во Рос. Ун-та дружбы народов, 1997. С. 154

³ *Исаев М. А.* Основы конституционного строя Швеции: учеб. пособие / М. А. Исаев. Моск. гос. ин-т междунар. отношений (ун-т) МИД России, кафедра конституцион. права. – М. : МГИМО-Университет, 2008. С. 187-189.

⁴ *Васильева Т. А.* Правовой статус этнических меньшинств в странах Западной Европы // Государство и право. 1992. №8. С. 140.

government institutions, courts, and when interacting with ombudspersons on matters concerning their interests. Additionally, the 1978 Act on Children's Institutions mandates that municipalities provide opportunities for children to attend institutions where their native language—Finnish, Swedish, or Sami—is spoken⁵.

In Russia, in accordance with the Law „On Guaranteeing the Rights of Indigenous Minorities of the Russian Federation“ of April 16, 1999, indigenous minorities are those peoples living in the territories of the traditional settlement of their ancestors, maintaining a traditional way of life, whose number in Russia is less than 50,000 persons, perceiving themselves as independent ethnic communities⁶. These include the indigenous peoples of the North, Siberia, and the Far East.

The attitude towards the problems of the indigenous peoples began to gradually change only with the beginning of active actions by the indigenous peoples themselves to protect their rights. The beginning of this movement was the visit of delegates of American Indians to the Paris (Versailles) Peace Conference in 1919, when they publicly announced themselves to the whole world. Starting from 1921, within the framework of the International Labour Organization (ILO), research was conducted on the problems of the situation of the working indigenous population. These efforts led, in particular, to the adoption of the Convention on Forced Labour of 1930 within the framework of the ILO, the Convention on the Recruitment of Indigenous Workers of 1936, and the Convention on Labour Contracts of Workers (Indigenous Population) of 1939⁷. The first comprehensive international legal act was adopted within the framework of the ILO on June 5, 1957, in the form of the Convention on the Protection and Integration of Indigenous and Other Populations Leading a Tribal and Semi-Tribal Way of Life in Independent Countries (Convention No. 107), which was revised in 1989, and based on it, the Convention on Indigenous Peoples was adopted (Convention No. 169). These are key international documents on the protection of the rights of indigenous peoples⁸. The preamble to Convention No. 107 draws attention to the situation of population groups not yet integrated into the respective national societies in which they live, and to social, economic or cultural conditions that prevent them from fully enjoying the rights enjoyed by other population groups. Convention No. 107 uses two concepts: „protection“ and „integration“, which complement each other. Protection is expressed in two forms: permanent and long-term. The first form of protection, limited in time, is used in situations where there is a „need for special protection“. Such a need exists when

⁵ *Пешнерова И. Ю.* Права национальных меньшинств и их защита в рамках Организации по безопасности и сотрудничеству в Европе (ОБСЕ). СПб. : Издательско-торговый дом «Летний сад», 2001. С. 79.

⁶ О гарантиях прав коренных малочисленных народов Российской Федерации: Закон РФ <http://duma.consultant.ru/doc.asp?ID=60305>.

⁷ *James S. Anaya.* Indigenous Peoples in International Law. Second Edition. Oxford University Press, 2004. P. 31.

⁸ *James S. Anaya.* Indigenous Peoples in International Law. Second Edition. Oxford University Press, 2004. P. 58.

the relevant population groups have not yet reached the level of integration that gives them the opportunity to enjoy the benefits of the general laws of the society to which they actually belong. A durable form of protection is linked to the principle of non-discrimination, which reinforces the obligation to adopt educational measures among other groups of the national community in order to eliminate the animosity that may exist against these groups of the population. Indigenous peoples are recognized as having the right of collective or individual ownership of the land that is in their primary possession. However, indigenous peoples may be displaced from the lands they occupy if national security considerations or the interests of national economic development require it. In case of such forced displacement, compensation should be made, that is, other lands should be given to indigenous peoples, comparable in quality to their original lands. Convention No. 107 takes into account the danger that the revaluation of values and reformatting of the institutions of a given population may represent if they cannot be replaced accordingly with the consent of the groups concerned. Indigenous peoples should be allowed to preserve only those own customs and institutions that are incompatible with the national legal order or the goals of the country's integration programs. The methods of social control used by indigenous peoples and customs related to punishment should be used by the authorities and the courts, respectively, but only „within the limits compatible with national interests“ and „with the legal order of the country.“ „As far as possible“ measures should be taken to preserve the mother tongue or local language, but a gradual transition from the mother tongue or local dialect to the national language or one of the official languages of the country should be foreseen.

An important step in consolidating the rights of indigenous peoples in international law was the adoption of the UN Declaration „On the Rights of Indigenous Peoples“ on September 13, 2007, the development of which took 20 years. An important contribution of the Declaration to the system of international protection of indigenous peoples was its attention to the collective rights of this ethnic group. Before its adoption, group rights were poorly protected in international law: the recognition of individual rights was considered sufficient to protect rights affecting collective interests (for example, cultural rights)⁹. The document separately declares the collective and individual rights of indigenous peoples: the right to self-determination; the right to autonomy or self-government in matters concerning their internal and local affairs; the right to preserve and strengthen its original political, legal, economic, social and cultural institutions; the right to citizenship; the right to life, physical and mental integrity, freedom and personal security, the right not to be subjected to forced assimilation or destruction of their culture; indigenous peoples cannot be forcibly evicted from their lands or territories; the right to observe and revive their cultural traditions and customs; the right to reveal, prac-

⁹ *Gargett, Andy. (2013). The United Nations Declaration on the Rights of Indigenous Peoples. A Manual for National Human Rights Institutions. p. 10.*

tice, develop and transmit one's spiritual and religious traditions, customs and rites; the right to revive, use, develop and pass on to future generations their stories, languages, oral folk traditions, philosophies, writing systems and works of literature; the right to establish and exercise control over their educational systems and educational institutions with their mother tongue of instruction in a manner consistent with their cultural tradition of learning and acquiring knowledge; the right to establish their own mass media in their native language and to have access to all types of non-indigenous media without any form of discrimination; the right without any kind of discrimination to improve the economic and social conditions of their lives, including, in particular, such areas as education, employment, vocational and technical training and retraining, provision of housing and a safe environment, health care, social security and others.

The Constitution of Ukraine also mentions the rights of indigenous peoples. Art. 11 establishes that the state promotes the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples of Ukraine. In 2021, the Law „On Indigenous Peoples of Ukraine“ was adopted. In this Act, an indigenous people of Ukraine is defined as an autochthonous ethnic community that has formed on the territory of Ukraine, is a native speaker of an original language and culture, has traditional, social, cultural or representative bodies, considers itself an indigenous people of Ukraine, constitutes an ethnic minority in its population and does not have its own state entity outside of Ukraine. For a long time, there was no uniform point of view in the academic literature as to which ethnic groups should be classified as indigenous peoples of Ukraine. Some researchers even hold that Crimean Tatars are not an indigenous people in Crimea¹⁰. On the other end of the spectrum, other authors propose to include Russians, Belarusians, Hungarians, Slovaks, Moldovans, Crimean Tatars, Karaites and Krymchaks, as well as those who moved to the uninhabited territories of Southern Ukraine in the 18th and 19th centuries and live on the lands they have developed, i.e. Bulgarians, Greeks, Albanians, Serbs and Gagauz¹¹. The most widespread point of view among scholars is that Crimean Tatars (about 250,000 persons in Ukraine), Karaites (1,196) and Krymchak (406) peoples should be classified as the indigenous peoples of Ukraine. This point will find its consolidation in the Law on Indigenous Peoples which defines that the indigenous peoples of Ukraine which formed on the territory of the Crimean peninsula, are the Crimean Tatars, Karaites, and Krymchaks. It should be emphasized that Ukraine did not recognize these ethnic groups as indigenous peoples for a long time. Only in the difficult period of 2014 (March 20), the Verkhovna Rada of Ukraine adopted Resolution No. 1140-VII „On the Statement of the Verkhovna Rada of Ukraine regarding guarantees of the rights of the Crimean Tatar people as part of the Ukrainian state“, which guaranteed the preservation and

¹⁰ Алексеев В., Терехов В. Татары Крыма – аборигены или пришельцы. / Журналист. 1997. №44. С.4

¹¹ Петков В.П., Петков С.В. Питання наукової розробки проблеми правового статусу національних меншин в Україні. Вісник Луганського інституту внутрішніх справ. 1998. №2. С.56.

development of the ethnic, cultural, linguistic and religious identity of the Crimean Tatar people as an indigenous people¹². It should also be emphasized that the point of view that they belong to indigenous peoples is quite common among representatives of the Gagauz ethnic group. In particular, Olga Kulaksyz, head of the Gagauz national cultural organization, noted this during an interview. At the end of the 19th century, the Gagauz were resettled to Bessarabia (Budjak), to the south of Ukraine and to the south of Moldova. Today, one part of them lives in Moldova (and created Gagauz Yeri, an autonomous region), and another in the Odesa region (about 40,000).

The Law on Indigenous Peoples guarantees the right to self-determination within Ukraine, which means that they can freely carry out their economic, social and cultural development, have the right to self-government in matters related to their internal affairs, etc. Indigenous peoples of Ukraine have the right to equal legal protection. Any discrimination against indigenous peoples of Ukraine in exercising their rights is prohibited. Also, indigenous peoples are guaranteed cultural rights, which are manifested through opportunities to observe, revive and develop their spiritual, religious and cultural traditions and customs, and the preservation of their tangible and intangible cultural heritage. They have the right to create their own educational institutions or cooperate with educational institutions of all forms of ownership in order to ensure the study of language, history, and culture. Through representative bodies, they have the right to create their own media. Through their representative bodies, they have the right to determine priorities and develop strategies in order to exercise their right to development, which consists in the development and implementation of state and regional programs. The indigenous peoples of Ukraine have the right to access financial, technical, charitable and humanitarian assistance from foreign countries, international organizations, legal entities and individuals. They are also guaranteed financial support for the activities of representative bodies, which is provided at the expense of the state budget of Ukraine under a separate budget program.

The Law on Education of Ukraine guarantees teaching in the Crimean Tatar language at all levels of education, and language rights in the fields of book publishing, information and others are also guaranteed by the state.

We should also mention the work of the constitutional commission in 2015-2016 regarding changes to the constitution in the plan of revising the legal status of the Crimean Autonomy. In particular, it was proposed to revise its nature, and to consider it more as a national autonomy within Ukraine. By the way, during the interview with representatives of the Mejlis of the Crimean Tatar people, they expressed the opinion that if Ukraine had adopted such legislative provisions back in the 1990s, there would not have been the so-called Crimean Spring and the occupation of the peninsula.

¹² Про Заяву Верховної Ради України щодо гарантій прав кримськотатарського народу у складі Української держави : Постанова Верховної Ради України від 20 березня 2014 р. №1140-VII. Офіційний вісник. 2014 р., № 26, стор. 9, стаття 761.

2. The History of the Crimean Tatar People’s Tragedy and the Efforts to Rehabilitate the Rights of this Ethnic Group during the Soviet Period

In 1944, after the liberation of Crimea by the Soviet army, Stalin and Beria decided on the forcible expulsion of the Crimean Tatar people from their historical homeland to Central Asia, which took place during May 18-21, 1944. This ethnic cleansing was carried out by the Department of State Security of the USSR in accordance with the command of Joseph Stalin and the resolution of the State Defence Committee of the USSR of May 11, 1944. In total, according to official data, 191,044 Crimean Tatars were deported to remote regions of the Soviet Union, to the republics of Central Asia. Individuals were given 15-20 minutes to collect their things. Officially, each family had the right to take up to 500 kg of luggage, but in reality, they were allowed to take much less, and sometimes nothing at all. People were taken to railway stations by trucks. From there, they sent almost 70 echelons with tightly closed freight cars full of people to the East. About 8,000 persons died during the relocation, most of them children and elderly. The most common causes of death were thirst and typhus.

The reason for the deportation was the fabricated accusation by the Soviet authorities that all Crimean Tatars had collaborated with Nazi Germany. During the expulsion and in the first years after it, according to official NKVD data some 27% to 46.2% of the deportees died¹³. Other, unofficial reasons for resettlement are cited by historians. Among them is the fact that the Crimean Tatars historically had close ties with Turkey, which the USSR at that time viewed as a potential rival. In the plans of the Soviet Union, Crimea was a strategic bridgehead in case of a possible conflict with this country, and Stalin wanted to be safe from possible saboteurs and traitors, considering the Tatars to be such. This theory is also supported by the fact that other Muslim ethnic groups were resettled from the Caucasian regions adjacent to Turkey: Chechens, Ingushetians, Karachay, and Balkar¹⁴.

Of course, the majority of researchers of this tragedy prove that the main goal of the deportation was the final Russification, or more precisely, the de-Tartarisation of Crimea, to completely remove the indigenous population from it in order to succeed in a completely new society, which consisted of immigrants arriving to the peninsula from all over the USSR and especially from the south of Russia. These immigrants were subjected to serious propaganda, to create a model of the „ideal Soviet society“.

¹³ Кримські татари: шлях до повернення: Кримськотатарський національний рух (друга половина 1940-х – початок 1990-х років) очима радянських спецслужб: Зб. док. та матеріалів НАН України. Інститут історії України; Головна редакційна колегія науково-документальної серії книг „Реабілітовані історією“; Державний архів СБ України; Кам’янець-Подільський державний університет. Ч. 1. К.: Інститут історії України, 2004.

¹⁴ Депортація кримських татар: як і чому СРСР вчинив злочин проти корінного народу URL: <https://www.bbc.com/ukrainian/articles/cx8qjx3pgego>.

According to the special settlements department of the NKVD of the USSR, 193,865 Crimean Tatars found themselves in exile in November 1944: 151,136 of them in Uzbekistan, 8,597 in the Mari ASSR, and 4,286 in the Kazakh SSR. The rest was distributed „for use in works“ to Molotov, now Perm (10,555), Kemerovo (6,743), Gorkii (5,095), Sverdlovsk (3,594), Ivanovsk (2,800), and Yaroslavl (1,059) regions of the RSFSR¹⁵.

In the Soviet period, the first attempt to rehabilitate the Crimean Tatar people was the decision of the Presidium of the Supreme Council of the USSR in 1967. In its Decree No. 493 of September 5, 1967, „On citizens of Tatar nationality living in Crimea,” it admitted that „after the liberation of Crimea from Nazi occupation in 1944, the facts of active cooperation with the German invaders of a certain part of the Tatars living in Crimea were unreasonably attributed to all the Tatar population of Crimea.“ It overturned the decisions of state bodies in the part that contained accusations against „citizens of Tatar nationality living in Crimea,” but argued that they „took root in the territory of the Uzbek and other union republics.” The resolution of the Presidium of the Supreme Council No. 494, which immediately followed the Decree, stated that „citizens of Tatar nationality ... and members of their families enjoy the right, like all citizens of the USSR, to reside throughout the entire territory of the Soviet Union in accordance with the current legislation on employment and passport regime.“ The clause about the „passport regime” contained a catch because it implied the creation of administrative obstacles on the way to Crimea. By the end of September 1967, about 2,000 Crimean Tatars had arrived on the peninsula, but almost none of those who arrived were registered. The decree of September 5, 1967, did not solve the Crimean Tatar problem, but only imitated its resolution.

Representatives of the Crimean Tatar people emphasize that this resolution actually did not provide opportunities for the Crimean Tatar people to return to their native lands. Those who returned resettled in the Kherson region or Krasnodar region, neighbouring Crimea. Those who tried to live in Crimea were either persecuted by the KGB or faced with intolerable living conditions. They were, e.g., not given a job or were not registered on the peninsula.

Only at the end of the 1980s did the Soviet authorities stop creating problems in the process of the return of the Crimean Tatar people to their historical land.

It should be emphasized that only after the occupation of Crimea in 2014, the Ukrainian state finally recognized the deportation of Crimean Tatars from Crimea in 1944 as a genocide of the Crimean Tatar people and established May 18 as the day of remembrance of the victims of the genocide of the Crimean Tatar people (Decision of the Verkhovna Rada of Ukraine of 2015).

¹⁵ Інформаційні матеріали до Дня пам’яті жертв геноциду кримськотатарського народу (18 травня) та Дня пам’яті жертв політичних репресій (19 травня) URL: <https://uin.gov.ua/informaciyini-materialy/zhurnalistam/informaciyini-materialy-do-dnya-pamyati-zhertv-genocydu-krymskotatarskogo-narodu-18-travnnya-ta-dnya-pamyati-zhertv-politychnyh-represiy-19-travnnya>.

3. The Rehabilitation of the Crimean Tatar People between the Declaration of Ukraine’s Independence and the Occupation of Crimea by Russia in 2014

After the declaration of Ukraine’s independence, Crimean Tatars began to fully return to the peninsula. As of 2013, their share of the Crimean population was almost 14 per cent.

It should be emphasized that despite several attempts to legislate on the restoration of the rights of deported persons, the Law of Ukraine „On Restoring the Rights of Persons Deported on National Grounds“ was adopted only after the occupation of Crimea in April 2014¹⁶.

What problems did the representatives of the Crimean Tatars face during the rehabilitation of their legal status and the restoration of their rights as an autonomous indigenous people?

The first problem was the issue of Crimean Tatar citizenship. The main problems were related to the bureaucratization of the return procedure. Obtaining a permit for immigration, with the need to renounce the previous citizenship of Uzbekistan, Kazakhstan, Tajikistan, etc., resulted in some members of the Tatar people becoming stateless.

It should be emphasized that the leaders of the Crimean Tatar people emphasized that the Ukrainian authorities have always made significant efforts to resolve the issue of Ukrainian citizenship for the deportees and their family members in Crimea¹⁷.

At the same time, according to the information of the OSCE High Commissioner for National Minorities, despite the fact that the naturalization procedure is simple, a number of complications arise in practice. First, many previously deported individuals arrive without original birth certificates, proof of family ties, or deportation records. Since the state does not provide free legal aid to previously deported persons, UNHCR continues to offer assistance in making requests to civil status registration authorities and other state authorities to obtain the necessary documents. Second, even with the right documents in place, minor mistakes in spelling and transliteration may cause major problems. Holders of such documents are expected to contact the authorities or courts in their country of previous residence/citizenship and have the errors corrected. Thirdly, about 8 per cent of previously deported persons have problems with processing documents for naturalization due to inaccuracies in the documents they brought from the country of their previous residence¹⁸.

As of 2013, about 500 members of the Crimean Tatar people were reported stateless, although the real number of such persons was much higher.

¹⁶ Про відновлення прав осіб, депортованих за національною ознакою : Закон України від 17 квітня 2014 року № 1223-VII Відомості Верховної Ради (ВВР), 2014, № 26, ст.896.

¹⁷ Кримськотатарська проблема і роль держави в її розв’язанні URL : <https://www.radiosvoboda.org/a/875226.html>.

¹⁸ Інтеграція раніше депортованих осіб у Криму, Україна. Оцінка потреб. Серпень 2013 р. Верховний комісар ОБСЄ у справах національних меншин URL : <https://www.osce.org/files/f/documents/c/1/110113.pdf>.

Secondly, the restoration of the right to land and property rights of members of the Crimean Tatars in Crimea has been the most acute political and humanitarian problem of Crimea for decades, since the return of the Crimean Tatars.

The OSCE High Commissioner for National Minorities analysed this problem and noted that the roots of land disputes lie in the deportations on national grounds in the 1940s, as well as in the failure of official mechanisms to solve problems with mass returns. The return took place in waves, and each wave of persons returning to Ukraine faced different circumstances. The first wave returned in the last years of the existence of the Soviet Union as a part of a large-scale state resettlement program announced at the end of 1989 by the State Commission for Crimean Tatar Affairs. The authorities planned to build about 80 settlements in economically backward areas of Crimea and attract those who returned to work in collective farms. This highly centralized and over-bureaucratized program suddenly ran into unforeseen circumstances: both the bankruptcy and collapse of the USSR, and a large number of spontaneous returns outside the program. Many Crimean Tatars, dissatisfied with the slow implementation of the state program, began to return on their own initiative and built unauthorized settlements. After several years, more than 200,000 Crimean Tatars had returned to their historical homeland, despite unfavourable social, economic and political conditions in Ukraine. Due to the lack of a legal framework and a comprehensive state program, the main concerns regarding the integration of those who returned from the very beginning fell on the shoulders of local authorities, which were not ready for this. Several years passed before the newly created government of Ukraine was able to present a national program. In the years before its adoption, large numbers of previously deported persons began to spontaneously settle on the territory of the Crimean Peninsula and created compact settlements¹⁹.

It should be mentioned that the Decree of the Cabinet of Ministers of Ukraine of 2004 „On measures to meet the social needs of deported Crimean Tatars and persons of other nationalities who have returned to Ukraine for permanent residence“ provides that settlements must be provided with water and that previously deported persons must receive a one-time payment in the amount of no more than 30 monthly minimum wages (about US\$ 2,900 as of 2009) to build housing. Previously, the state program had an average annual budget of approximately US\$ 10 million, but this has since been significantly reduced. According to the announcement of the government of Ukraine, about 1.2 billion hryvnias (150-300 million US\$) have been spent from the budget to meet the needs of previously deported persons since 1991.

¹⁹ Інтеграція раніше депортованих осіб у Криму, Україна. Оцінка потреб. Серпень 2013 р. Верховний комісар ОБСЄ у справах національних меншин URL : <https://www.osce.org/files/f/documents/c/1/110113.pdf>.

It should be emphasized that according to the estimates of various human rights organizations, previously deported persons returning from Uzbekistan spend an average of 550 US\$ per person on moving and transportation of personal property. A significant part of these costs should have been reimbursed after the completion of the naturalization process of the previously deported person. However, between 1999 and 2011, only 23,202 deported persons, or approximately 16 per cent of the total number of previously deported persons who received Ukrainian citizenship during that period, were reimbursed.

The solution of the land problems of the Crimean Tatars did not take place either, due to the unfavourable political situation in the Crimean society. Pro-Russian forces have always considered numerous newly arrived Crimean Tatars, who were mostly convinced supporters of Ukrainian statehood, as an additional burden and as new political opponents. Relations between previously deported persons and the Russian-speaking community have always been strained and burdened with mistrust²⁰.

According to the Mejlis of the Crimean Tatar people, the Crimean Tatars, returning to Crimea, could not claim their historical lands, especially on the Southern coast, and had to look for alternative options in other places, primarily around large cities such as Simferopol and Bakhchisarai, or in the Bilohirskyi, Pervomaiskyi, Kirovskyi and Sovietskyi regions. Thus, previously deported persons felt not only deprived of their ancestral lands, but also placed in an economically disadvantageous position compared to the rest of the Crimean population. After the mass return of the Crimean Tatars in the early 1990s, they were forbidden to settle in that region of Crimea which was economically most attractive and interesting from the point of view of development prospects²¹.

The most pressing problem of the relations of the Crimean Tatar people with the state power and the autonomous power was the issue of self-grabbing of lands. Hence the problem of unauthorized land grabbing, known in Ukraine as „self-grabbing“, is a phenomenon specific to Crimea, a consequence of both the unmanaged return process and the above-described real or perceived injustice in the distribution of land. According to various sources, there were more than 50 unauthorized settlements of Crimean Tatars. Many previously deported persons built housing at their own expense without any official permission, often forming compact settlements. Many of these settlements were legalized post factum by the authorities. Self-grabbing was also a protest against injustice and non-transparent land distribution on the peninsula. To a large extent, everything happened on the outskirts

²⁰ Кримський соціум: лінії поділу та перспективи консолідації (Аналітична доповідь Центру Разумкова) (2009)
URL: https://razumkov.org.ua/uploads/journal/ukr/NSD109_2009_ukr.pdf.

²¹ Курбатов С. Репатріація у контексті міжетнічних стосунків: кримські татари в Україні https://ukr-socium.org.ua/wp-content/uploads/2006/04/89-96__no-2__vol-13__2006__UKR.pdf.

of Simferopol; its components were pickets, slogans and a constant presence on the captured lands, which were called „protest fields“.

An example of such conflicts is the case of 2006, when residents of the village of Partenit blocked the road, thereby preventing the entry of about 600 cars of Crimean Tatars conducting a requiem rally in memory of the victims of political repression. As the village head noted, the residents believed that the Crimean Tatars could carry out self-grabbing²².

The Crimean authorities adopted a law on responsibility for self-harm, approved in 2007 by the Verkhovna Rada of Ukraine. This stage was marked by eviction operations and clashes between Crimean Tatars and Ukrainian law enforcement agencies, the most famous of which occurred during the violent demolition of buildings on the Ai Petri Plateau in November 2007, when about 1,000 special police forces clashed with hundreds of Crimean Tatars who tried to resist the demolition of their residential and business buildings²³. Crimean Tatars tried to return to the lands where their settlements had existed until 1944.

The position of the authorities fluctuated between repressive and conciliatory measures, but in most cases preferred the latter. In general, with the exception of the force operations of 2007, the Ukrainian authorities and the authorities of the autonomy prudently refrained from direct confrontation with the participants of self-grabbing with the use of force and recognized that there is a conflict in such actions.

As of 2010, in Crimea, according to the Republican Committee on Land Issues, almost 16,000 persons arbitrarily seized about 1,300 hectares of land. Approximately 70 per cent of these people were Crimean Tatars who had returned from places of deportation to their homeland, 30 per cent were of Slavic nationality²⁴.

It is important to stress that Ukrainian authorities should have acted as the authorities in the Baltic countries did in the issue of restoring the rights of members of the Crimean Tatar people. In particular, restitution legislation in Latvia provided for the restoration of real estate to former owners, from whom it had been taken during the Soviet regime, or to their descendants. Real estate could be obtained as desired in whole or in part; it was also possible to receive monetary compensation in accordance with the state assessment; former owners and descendants of immovable property or land plots could receive similar objects elsewhere if they wished.

²² В Криму самозахватами занято 1300 гектаров землі URL: <https://korrespondent.net/ukraine/events/413559-v-krimu-samozahvatami-zanyato-1300-gektarov-zemli>.

²³ На Кримських татар спустили тисячу озброєних бійців „Беркуту“ URL: <https://www.pravda.com.ua/news/2007/11/6/3314143/>.

²⁴ Самозахоплення в Криму URL: https://www.bbc.com/ukrainian/ukraine/2010/02/100205_crimea_land_ns.

The old property rights of independent Latvia were still remembered and valued. The fundamental principle of justice was restitution, which returned everything to the original owners and legal heirs and basically legitimized them. The restitution of agricultural land and real estate was carried out quickly and with great success. Two related laws were adopted to implement the restitution: „On the Denationalization of Households” and „On the Return of Households to Their Lawful Owners”. They were adopted by the Supreme Council of the Republic of Latvia on October 30, 1991, and entered into force in 1992. The first one declared invalid the decree of the Supreme Council of the Latvian SSR of October 28, 1940, „On the Nationalization of Large Houses” and all normative acts issued on its basis. The decree of March 14 on the transfer of landowners’, large landowners’ and kulak farms’ holdings to the state fund and all decrees on the nationalization of individual households was also repealed. The second law restored the rights of former house owners whose property had been confiscated in favour of the state or legal entities in any other way throughout the Soviet period in Latvia, regardless of the current citizenship of its bearer. The issue of returning property to its rightful owners was left to municipalities. From 1992 to 2002, according to the Central Statistical Bureau, 10,321 residential buildings, 78,000 apartments (8 per cent of the total number of housing units) with a total area of 3.6365 million square meters (6.6 per cent of the total area of housing) were denationalized or returned to their previous owners in Latvia. 220,000 individuals lived in these apartments, i.e. 10 per cent of Latvia’s population²⁵.

We believe that the introduction of such a practice would contribute to the decommunization of public life in Ukraine as a whole.

Closely connected with the problem of turning over lands to the Crimean Tatars was the problem of their socio-economic adaptation and social support. As the descendants say, the financial support from the side of the ruler was very painful for the Crimean Tatars. Most of them died without any particular losses, not only through significant benefits, but also due to the inheritance of mass unemployment. In 1999, 72.6 per cent of the Crimean Tatars were not in labour. Along with unemployment, the Crimean Tatars named poverty (63.9 per cent) and lack of housing (42.2 per cent) as the most pressing problems for themselves²⁶.

The third problem is political representation. In June 1991, the Second Kurultai of the Crimean Tatar people was held, which the majority of Crimean Tatars consider their representative body. It is formed by 250 delegates elected by local communities for a term of five years. The Kurultai, in

²⁵ Кугель М. «Историческая справедливость» в действии: латвийская денационализация и ее социально-экономические последствия. «Неприкосновенный запас». 2020. № 133 (5). URL: https://www.nlobooks.ru/magazines/neprikosnovennyyu_zapas/133_nz_5_2020/article/23002/.

²⁶ Котигоренко В.О. Кримськотатарські репатріанти: проблема соціальної адаптації. К.: Світогляд, 2005. С. 79.

turn, elects the executive council, or Milli Mejlis, which consists of 33 members. The Mejlis implements the decisions of the Kurultay and represents the community between Kurultay sessions. In addition to the all-Crimean Mejlis, there are 250 local Mejlis united in 22 regional Mejlis. On May 18, 1999, more than 30,000 Crimean Tatars marched to Simferopol on the 55th anniversary of the deportation of 1944. The President of Ukraine signed an order to create an advisory service for the nutrition of the Crimean Tatar population under the President Ukraine. However, before the adoption of the Law „On Indigenous Peoples“, the legal status of Mejlis was not regulated and it did not have any legal status.

In addition, among officials and civil servants in Crimea, the share of Crimean Tatars in 2009-2012 is approximately 10 per cent, which is less than their share of the total population of Crimea. It should be emphasized that the main reasons for the insufficient level of consideration of the needs for participation in political life were the limited representation of Crimean Tatars in authorities, their deprivation of the opportunity to solve problematic issues through referendums, and the biased attitude of local authorities towards their rights and needs.

Fourthly, there were problems with the development of language, culture and religion. Article 10.1. of the Constitution of the Crimea, adopted in 1998, reads: „along with the state language [Ukrainian] ensures the functioning and development, use and protection of Russian, Crimean Tatar, as well as the languages of other ethnic groups.“ However, the language of the Crimean region still remained Russian. In addition, more than 95 per cent of Crimean cities and settlements, which previously had had Tatar names, were renamed in the Russian style, and their old names were not returned. Proposals to use historical names alongside modern ones are usually rejected by the majority.

As for culture, several initiatives were implemented to revive minority languages and cultures. The Crimean Tatar Library named after I. Gasprinskyi in Simferopol held events to support Crimean Tatar culture and language.

In terms of education, only 16 per cent of students of Crimean Tatar origin are taught in the Crimean Tatar language, while 39 per cent study it as a subject. The number of students learning other languages of previously deported persons is much lower: less than 0.3 per cent of the total number of students in the 2012/2013 school year. As a result, in 2013, 92 per cent of secondary school students in Crimea preferred to write their final exams in Russian language, 7.5 per cent in Ukrainian and none in Crimean Tatar. The inability or unwillingness of local authorities to fund education in minority languages has often led to distorted educational practices where minority parents are forced to actively seek alternative sources of funding. Teaching and learning the languages of previously deported people in Crimea was hampered by a lack of qualified teachers, which, in turn, is a consequence of

inadequate teacher training. problems with providing textbooks, especially in the Crimean Tatar language.

At the same time, according to the Ministry of Education, the state of learning and studying the Crimean Tatar language in 2013 was quite high. In particular, at the time of the occupation, 208,536 students were receiving education in Crimea. 189,132 students or 90.7 per cent studied in Russian, 13,589 (6.5 percent) studied in Ukrainian, and 5,551 (2.7 per cent) were Crimean Tatar students. In 2013, 7 schools in Crimea carried out a full cycle of education in Ukrainian language, 15 schools in the Crimean Tatar language. In addition, there were several schools with education in both languages. The language of instruction was distributed as follows in Crimea: 875 classes with Ukrainian, 384 with Crimean Tatar, 8,965 classes with Russian. Of all pupils in Crimea, 206,866 children (99.2 percent) studied the Russian language as a subject, 18.000 (8.6 per cent) Crimean Tatar language²⁷.

4. The Position of the Crimean Tatars after 2014

Ukraine provides material, financial and organizational support to the Crimean Tatar national group. In addition to the above-mentioned measures, Ukraine has taken a number of steps in recent years to support the language and culture of the indigenous people of Crimea. Thus, in February 2021, the President of Ukraine issued a decree „On separate measures aimed at the de-occupation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea and the City of Sevastopol.“ In April 2021, the Ukrainian government approved the Concepts for the Development of the Crimean Tatar Language for 2022-2032, and the Ministry of Reintegration initiated the project of the National Corpus of the Crimean Tatar Language. In particular, this concerned the resettlement of Tatars who left the territory of the autonomous region (about 30,000 according to representatives of Mejlis) to other regions of Ukraine, a significant number of them lived in Henichesk (Kherson region). Unfortunately, after the occupation of Kherson region, in particular Henichesk, in 2022, these Crimean Tatars are again forced to live under the rule of Russia. Local residents report cases of abductions and illegal detentions of representatives of the Crimean Tatar community. Abductees are often detained without any reason, and relatives do not receive any information about the whereabouts of their loved ones. In particular, numerous cases of detention take place without any legal grounds, often without any explanation or evidence of the detainees' „guilt“. Several well-known members of

²⁷ За три роки кількість учнів у Криму, які навчаються українською, зменшилась у 36 разів URL: <https://www.ukrinform.ua/rubric-polytics/2220496-za-tri-roki-kilkist-ucniv-u-krimu-aki-navcautsa-ukrainskou-zmensilas-u-36-raziv.html>.

the Crimean Tatar people in the region have already been imprisoned and are located in Russian prisons and colonies²⁸.

It should be emphasized that members of the Crimean Tatar people serve in the authorities of Ukraine, including the highest, in particular, members of Parliament,— such as M. Dzhemilev and R. Chubarov, and R. Umerov is the Minister of Defence of Ukraine in the current difficult period.

As for the situation of the Crimean Tatars in Crimea occupied by Russia, the situation of the Crimean Tatars on the territory of the peninsula worsened although the President of Russia issued a Decree on the Rehabilitation of Deported Peoples in Crimea in 2014²⁹. In particular, as regards humanitarian policy, primarily education, the number of students receiving education in the Crimean Tatar language is decreasing. Thus, in the 2017-2018 academic year, 15 schools with the Crimean Tatar language of instruction worked on the peninsula. Another 31 schools had 133 classes with the Crimean Tatar language of instruction, where 1,879 students studied. However, in 2022, although the number of schools in Crimea increased, even one more Crimean Tatar school was opened in Simferopol, but the number of classes taught in native languages decreased³⁰.

The policy of persecuting representatives of the Mejlis and individual Crimean Tatars who do not agree with Russia's policy in Crimea regarding the indigenous people, is particularly shameful. Thus, on April 26, 2016, the Supreme Court of the Republic of Crimea classified the Mejlis as an extremist public association and banned its activities on the territory of the Russian Federation³¹.

Many representatives of the Crimean Tatar people became victims of persecution by law enforcement agencies of the occupation authorities. The first victim of the occupation authorities was a Crimean Tatar, Reshat Ametov, who went on a solitary picket against the annexation of Crimea. After that, he was tortured by unknown people near Biloghirsk. He was given the title of Hero of Ukraine posthumously.

One of the most high-profile cases related to disappearances in Crimea is the case of Ervin Ibragimov. On the night of May 25, 2016, Ervin became another victim of a violent kidnapping on the territory of the annexed peninsula. The last time he was spotted by surveillance cameras was near one of the shops in Bakhchisarai. The video clearly shows how people in the uniform of the occupation forces' road patrol service stopped the movement of Ibragimov's car, pulled him out of it and

²⁸ Азовський Д. Стала відома кількість кримськотатарських політв'язнів в окупованому Криму: серед них багато татар з Генічеського району URL: <https://henichesk.rayon.in.ua/news/730976-stala-vidoma-kilkist-krimskotatarskikh-politvyazniv-v-okupovanomu-krimu-sered-nikh-bagato-tatar-z-genicheskogo-rayonu>.

²⁹ Указ Президента Российской Федерации от 21.04.2014 г. № 268 «О мерах по реабилитации армянского, болгарского, греческого, крымско-татарского и немецкого народов и государственной поддержке их возрождения и развития»,,. Kremlin.ru.

³⁰ Українську витиснули, кримськотатарській приготуватися. Як із кримських шкіл вичавлюють вивчення «державних» мов <https://investigator.org.ua/ua/topnews/258984/>.

³¹ Суд из-за экстремизма запретил меджлис крымскотатарского народа. Интерфакс (26 апреля 2016).

forced him into another car, after which they drove away. For more than seven years, the fate of the activist, member of the executive board of the World Congress of Crimean Tatars and member of the regional Mejlis, has been unknown.

Edem Bekirov, Server Mustafayev, Nariman Dzhelal, Ruslan Trubach, Leniye Umerova, Ap-paz Khalilov, Seyran Saliev, Oleg Sentsov, Volodymyr Balukh, Oleksandr Kolchenko, Ilmi Umerov, Stanislav Klyh and Akhtem Chiygoz were arrested, convicted and tortured.

The case of Edem Bekirov begins on December 12, 2018, at 8:30 in the morning. The man was detained at the Chongar checkpoint. On December 13, the judge of the Kyiv District Court of the Simferopol Occupation Administration, Valentina Kaminina, arrested Bekirov for two months, accusing him of Art. 222 and Art. 222.1 sect. 2 of the Criminal Code of the Russian Federation. The man spent a considerable period of time in the pre-trial detention centre without the necessary medical assistance. Bekirov's family obtained permission to transfer medication to the prisoner, but at that time he was already insulin dependent and in a serious physical condition. He is a person with disabilities, with an amputated leg, diabetes, shunts in the heart and a long list of diseases. The man's fate was decided in 2019. On September 7, 2019, he was exchanged together with other political prisoners, such as Oleg Sentsov, Volodymyr Balukh, Oleksandr Kolchenko, Pavlo Hryb and others.

In this case, it should also be mentioned that on June 25, 2024, the European Court of Human Rights passed a decision in the case of Crimean Tatar activist Edem Bekirov, accused in Crimea of illegal storage of ammunition and explosives. In particular, the court decided to urgently transfer him to the hospital.

In addition, during the more than 10 years of annexation of the peninsula, at least 13 independent lawyers have suffered various forms of oppression. Unauthorized searches, threats, detention, deprivation of a lawyer's license. The latest such case is Oleksiy Ladin, who was arrested in October 2023 and detained for 14 days. The Crimean occupation police demand that the lawyer be deprived of his license to practice law. Lawyer Lili Gemiji was not as lucky. In August 2022 she and a number of other human rights defenders were deprived of their license to practice law.

Conclusions

Article 11 of the Constitution of Ukraine affirms the state's commitment to promoting the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples of Ukraine. In academic literature and international law, indigenous peoples are typically defined as groups that have faced colonization or conquest, resulting in their minority status within a state dominated by a titular nation. The Law on Indigenous Peoples of Ukraine specifies that the indigenous peoples orig-

inating from the Crimean Peninsula include the Crimean Tatars, Karaites, and Krymchaks. According to the 2001 all-Ukrainian population census, there were approximately 250,000 Crimean Tatars, 1,196 Karaites, and 406 Krymchaks residing in Ukraine.

The tragic history of the Crimean Tatar people serves as a stark example of the crimes committed by the Soviet government, reflecting its disregard for human dignity and the rights of individual national and ethnic groups, not just for self-identification but for their very existence. The Soviet Union's policy toward the Crimean Tatars aimed to reshape the population of the peninsula into a „necessary“ and „ideal“ Russian-speaking community, submissive to Soviet rule. Only with the advent of Perestroika, the collapse of the USSR, and Ukraine's declaration of independence were the Crimean Tatars able to return to their historic lands.

The return to Crimea and the subsequent processes of rehabilitation and restoration of their rights were fraught with significant humanitarian challenges. These included citizenship issues, property restitution, land disputes, and the full political participation of Crimean Tatars both within the autonomy and in Ukraine as a whole. Additionally, there were concerns about the renewal and development of their culture, language, and religion. These processes naturally led to social tension and conflicts with other national groups in Crimea, particularly the Russian-speaking population. It should be noted that Ukraine created appropriate legislative and social conditions for the return and integration of the Crimean Tatars and acted as an arbitrator in these conflicts, striving to reconcile all national and linguistic groups in the region. However, the modern perspective and the events of the so-called „Russian Spring,“ along with the Crimean Tatars' stance on these events, suggest that Ukraine could have taken a more assertive position in protecting the Crimean Tatars. This could have included stronger efforts to integrate them into the autonomy's population and Ukrainian society as a whole, reconstitute their property, create conditions for the development of their culture and language, recognize their status as the indigenous people of Crimea, and acknowledge their rights to self-determination in their places of compact residence.

After 2014, Ukraine significantly revised its approach to the legislative recognition of the Crimean Tatars' legal status. In contrast, the occupying power's policy has been aimed at suppressing the pro-Ukrainian stance of the Crimean Tatars, persecuting their moral leaders, and stifling any views opposing Russia's vision for the future of Crimea's indigenous people.

It should be noted that the situation for the Crimean Tatars on the peninsula has deteriorated since Russia's occupation in 2014. In the realm of humanitarian policy, particularly education, there has been a noticeable decline in the number of students receiving education in the Crimean Tatar language. The persecution of representatives of the Mejlis, which has been unjustly labelled as an

extremist organization, and the harassment of Crimean Tatars who oppose Russia’s policies in Crimea are particularly egregious aspects of this oppression.

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